IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE EIGHTEENTH DAY OF JUNE
TWO THOUSAND AND SEVEN

PRESENT
THE HON'BLE SRI JUSTICE BILAL NAZKI
and
THE HON'BLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION No.1740 of 2007

Between:

M/S.Sri Sai Venkata Ramana Constructions,
Nellore.

..... PETITIONER

and

1.The Commercial Tax Officer No.III,
Nellore and 2 others.

.....RESPONDENTS

The Hon'ble Sri Justice Bilal Nazki
and
The Hon'ble Sri Justice S.Ananda Reddy

Writ Petition No.1740 of 2007

Order: *(per the Hon'ble Sri Justice Bilal Nazki)*

The case of the petitioner is that he has a contract relating to earth works with respondent No.3, but respondent No.3 is deducting tax at source @ 4% on the running account bills of the petitioner and, as a matter of fact, it is settled that no tax is assessable on contracts and

agreements relating to earth works.

The learned Counsel for the respondents was directed to seek instructions. The learned Government Pleader for Commercial Taxes as well as the learned Counsel for respondent No.3 accepts that the contract relates to earth works only. Counter has also been filed admitting that the contract relates to earth works.

In view of the same, respondent No.3 was not entitled to deduct any tax at source for the contract in question.

The Writ Petition is, accordingly, allowed and respondent No.3 is directed not to deduct any tax at source for the contract in question. When this Writ Petition was entertained on
01-02-2007, this Court had directed that if any TDS is deducted by respondent No.3, it should be kept by them in a Fixed Deposit and shall not be transferred to the Sales Tax Department. The amount so deposited in the Fixed Deposit shall now be released in favour of the petitioner, and if any tax has already been transferred to the Sales Tax Department prior to this Court's interim order dated 01-02-2007, the petitioner shall be at liberty seek its refund from the Sales Tax Authorities.

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(Bilal Nazki, J)

18th June, 2007

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(S.Ananda Reddy, J)

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